



THE CITRUS CANKER REGULATIONS 1945

C. L. N. NEWALL, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington, this 28th day of
November, 1945

Present :

THE RIGHT HON. P. FRASER PRESIDING IN COUNCIL

PURSUANT to the Orchard and Garden Diseases Act, 1928, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS

PRELIMINARY

1. (1) These regulations may be cited as the Citrus Canker Regulations 1945.

(2) These regulations shall come into force on the seventh day after notification in the *Gazette* of the making hereof.

(3) In these regulations, unless inconsistent with the context,—

“ The said Act ” means the Orchard and Garden Diseases Act 1928 :

“ Citrus tree ” includes lemon, orange, mandarin, lime, grapefruit, and New Zealand grapefruit tree or plant, and every other kind or variety of citrus tree or plant :

“ Director ” means the Director of the Horticulture Division of the Department of Agriculture :

“ Disease ” means the disease known as “ citrus canker of Japan ” :

“ Diseased ” means infected with disease :

“ District ” means a citrus-growing district created under these regulations :

“ Infected area ” means any land declared by an Inspector pursuant to these regulations to be an infected area :

“ Inspector ” means an Inspector appointed under the said Act :

“ Minister ” means the Minister of Agriculture :

“ Occupier ”, in the case of any land which is unoccupied or of which the occupier is unknown or cannot be found, includes the owner.

“ Orchard ” means any land planted wholly or partly with citrus trees.

(4) The Citrus Canker Regulations 1940* are revoked.

(5) All appointments, consents, declarations of infected areas, and other declarations, and all districts, notices, permits, and generally all acts of authority, and all applications and all other documents, matters, acts, and things which originated or had effect under the regulations hereby revoked and are of continuing effect at the time of coming into force of these regulations shall enure for the purposes of these regulations as if they had originated under these regulations and shall where necessary be deemed to have so originated.

DECLARATION OF INFECTED AREAS

2. (1) If an Inspector is satisfied that disease is found on any land by reason of the existence of the disease in any citrus tree growing on the land he shall, by writing under his hand, declare such land, together with such other adjoining lands (if any) as he thinks fit to include in the declaration, to be an infected area.

(2) Every such declaration shall as regards any particular parcel of land take effect on receipt by an occupier thereof of a notice in writing of such declaration given under the hand of an Inspector or any other officer of the Public Service, and shall continue to bind the land and all occupiers thereof, notwithstanding any change in the occupancy or ownership thereof after notice as aforesaid has been given.

(3) Every occupier of land to whom notice has been given of a declaration made under clause (1) of this regulation shall forthwith communicate the notice to the owner of the land and every person having any estate or interest in the land so far as the name and address of such person is known to the occupier.

(4) The Inspector shall notify the Director of any declaration made under clause (1) of this regulation, and the Director shall cause notification of such declaration to be published in the *Gazette* and in such newspapers circulating in the district where the disease is found as he thinks fit.

(5) Every declaration of an infected area pursuant to these regulations shall particularly describe the area intended to be affected by the declaration.

(6) Any declaration of an infected area made under these regulations may at any time by further declaration be extended to any other land on which disease is found and which adjoins land already included in the declaration, and clauses (2) to (5) of this regulation shall apply to such further declaration.

(7) Any declaration of an infected area made under these regulations may at any time, by writing under the hand of an Inspector, be wholly or partially revoked, and such revocation shall take effect upon notification thereof to the occupier of any land or upon publication of the instrument or a notification of the effect thereof in the *Gazette* or any other newspaper.

(8) Production of a copy of the *Gazette* in which is published notification of any declaration made under these regulations shall, until the contrary is proved, be sufficient evidence that the declaration was duly made and continues in force.

MEASURES OF CONTROL

3. (1) If an inspector finds a citrus tree growing on any land, whether within an infected area or not, to be diseased, the Inspector may place on the tree some mark of identification and may by notice

* Statutory Regulations 1940, Serial number 1940/300, page 1029.

in or to the effect of the form in the Schedule hereto delivered to the occupier of the land require the occupier to destroy or cause to be destroyed within the time specified in that behalf in the notice every diseased citrus tree referred to in the notice, together with every citrus tree the trunk of which is within a distance of 36 ft. from the trunk of a diseased citrus tree referred to in the notice.

(2) If on inspection of any land within twelve months after the date of a notice given pursuant to the last preceding clause of this regulation disease is found in any citrus tree growing thereon, the Inspector may by a like notice delivered to the occupier of the land require the occupier to destroy or cause to be destroyed all the remaining citrus trees growing on the land or such of them as may be specified in the notice.

(3) If the occupier of any land to whom any notice is delivered pursuant to the foregoing provisions of this regulation fails to comply with the requirements of that notice it shall be lawful for an Inspector to destroy or cause to be destroyed the citrus trees to which the notice relates, at the expense in all things of the occupier, and the cost of such destruction may be deducted from the amount of compensation payable for such destruction as hereinafter provided.

(4) The occupier of any land within a district shall take such steps, whether remedial or precautionary, as may be required of him by an Inspector to render or preserve the said land thoroughly free from disease and from infection by disease. Such steps may include the disinfection or other treatment of all tools, implements, appliances, and every other substance, material, article, or thing which may have come into contact with any diseased citrus tree or any portion thereof in such manner as the Inspector shall require.

(5) Every person employed in or about an orchard or nursery in which disease is found or coming into contact with the soil of any such orchard or nursery shall comply with the reasonable requirements of an Inspector given with a view to the prevention of the spread of disease, including requirements about changing, cleaning, and disinfecting outer clothing.

(6) It shall be lawful for an Inspector in the exercise of the powers conferred by these regulations at all reasonable times to enter upon any land and into any building used for the storage of fruit or for horticultural purposes.

REMOVAL OF CITRUS TREES

4. (1) No person shall without the written consent of an Inspector, and subject to such conditions as he thinks fit to impose, bring or remove, or cause or permit to be brought or removed, any citrus tree or any fruit or other portion thereof, or any animal, tool, implement, appliance, substance, material, article, or thing which has come into contact with or been used in connection with any citrus tree—

- (a) From an infected area to any other land, whether an infected area or not ; or
- (b) Into an infected area from any other land, whether an infected area or not ; or
- (c) From any place or site within an infected area to any other place or site within the same infected area.

(2) Nothing in these regulations shall be deemed to prohibit the taking or removal by an Inspector of any citrus tree, or any fruit or other portion thereof, which is properly wrapped for carriage by rail or by other means—

(a) From an infected area to any place outside the infected area ; or

(b) Through any infected area from any place outside the infected area to any other place outside the infected area—

for special examination for the purpose of identifying disease or for any other purpose authorized in that behalf by the Director.

(3) No occupier of any land within an infected area on which are planted any citrus trees shall destroy, or otherwise dispose of, or cause or permit to be destroyed, or otherwise disposed of, any citrus tree or any fruit or other portion thereof on his land, except in compliance with Regulation 3 hereof.

REPORTS OF OUTBREAKS OF DISEASE

5. Every person being the occupier or person in charge of any land planted with any citrus trees (whether or not such land is within an infected area) shall, if he has reasonable grounds for suspecting that disease exists among any citrus trees growing on that land, forthwith give notice in writing to that effect to the nearest Orchard Instructor or to the Director of the Horticulture Division of the Department of Agriculture at Wellington.

CITRUS CANKER ADVISORY COMMITTEES

6. (1) The Minister may from time to time, by notice under his hand published in the *Gazette*, declare that any part of New Zealand shall be a citrus-growing district for the purpose of these regulations, and may by the same or a subsequent notice appoint for any citrus-growing district a committee, to be known as “the [*Name of district*] Citrus Canker Advisory Committee”.

(2) Each committee shall consist of—

(a) Two persons who shall be officers of the Public Service for the time being on the staff of the Department of Agriculture :

(b) One person who shall be an officer of the Public Service for the time being on the staff of the Plant Diseases Division of the Department of Scientific and Industrial Research :

(c) Two persons who shall be growers of citrus fruit in the district for which the committee is established, to be appointed from a panel of four such growers recommended in that behalf by an association of growers of citrus fruit established in that district.

(3) The members of a committee shall hold office during the pleasure of the Minister.

(4) Of the members of a committee, one member, being an officer of the Public Service for the time being on the staff of the Department of Agriculture and named by the Minister in the instrument of appointment, shall be chairman.

(5) Any meeting of a committee shall be held at such time and place as the committee or the chairman or any two members thereof may from time to time appoint.

(6) At any meeting of a committee three members shall form a quorum.

(7) In the absence of the chairman from any meeting of a committee the members present thereat shall choose one of the members appointed pursuant to paragraph (a) or paragraph (b) of clause (2) of this regulation, and present at the meeting, to be chairman of that meeting.

(8) At every meeting of a committee the chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote, and a decision reached by voting as aforesaid shall be the decision of the committee.

(9) Each committee shall, whenever requested by the Minister so to do, advise the Minister as to any matter referred to the committee in relation to the eradication or the prevention of the spread of disease within New Zealand.

(10) Every member of a committee, not being an officer of the Public Service, may be paid such fee, not exceeding 12s. 6d., as may be considered reasonable by the Minister for each half-day or part of a half-day on which he is engaged on the business of the committee.

(11) The Travelling-allowance Regulations 1941* shall apply to and be deemed to be incorporated in these regulations so as to relate to each committee and its members, save that the fee referred to in the last preceding clause hereof shall be deemed to be payable in lieu of any subsistence allowance referred to in those regulations.

(12) The mileage-allowances and other allowances referred to in Regulation 11 of the Travelling-allowance Regulations 1941* shall for journeys performed in a motor-vehicle be the mileage-allowances set out in the subjoined table and actual garage expenses not exceeding 2s. 6d. for every night :—

| Horse-power of Car. | | | | | | Mileage Allowance. |
|---------------------|----|----|----|----|----|--------------------|
| Not exceeding 9½ | .. | .. | .. | .. | .. | 5d. a mile. |
| Not exceeding 14½ | .. | .. | .. | .. | .. | 5¾d. a mile. |
| Exceeding 14½ | .. | .. | .. | .. | .. | 6¼d. a mile. |

COMPENSATION

7. (1) Where any citrus trees growing on any land have been destroyed on account of disease—

(a) At any time after the 1st day of May, 1945, and before the coming into force of these regulations; or

(b) After the coming into force of these regulations and pursuant to these regulations,—

every person having any estate or interest in or encumbrance or charge over such land shall be entitled to compensation for such destruction to the extent and subject to the exceptions and conditions hereinafter prescribed.

(2) The said compensation shall be based as provided by clause (10) of this regulation on an amount assessed as representing the loss (within the limits hereinafter prescribed) which results from the destruction in respect of which the right to compensation arises.

(3) Where the land concerned is situate within a citrus-growing district the amount representing such loss shall be assessed by the Citrus Canker Advisory Committee of that district, and in any other case

* Statutory Regulations 1941, Serial number 1941/149, page 486.

by a committee consisting of the Director and a District Supervisor of the Horticulture Division of the Department of Agriculture, or consisting of any two officers of the said Division nominated by the the Director.

(4) In the case of any citrus tree which has not come into bearing at the date of destruction the amount to be assessed as representing such loss as aforesaid shall not exceed the respective amounts appearing in the table subjoined to this clause according to whether the citrus tree was growing in a nursery or an orchard, and in the latter case according to the period between the date of planting in the orchard and the date of destruction :—

| Description of Citrus Tree. | Maximum Amount for each Citrus Tree. |
|--|--------------------------------------|
| | s. d. |
| Tree in nursery | 3 0 |
| Tree in orchard : Period between planting and destruction— | |
| Under one year | 5 0 |
| One year but less than two years | 6 0 |
| Two years but less than three years | 7 0 |
| Three years but less than four years | 8 0 |
| Four years but less than five years | 9 0 |
| Five years and over | 10 0 |

(5) In the case of any citrus tree which has come into bearing at the date of destruction the amount to be assessed as representing such loss shall be such sum, being not less than 10s. nor more than £7, as is determined by the committee to be the value of the loss of the crop, computed at the rate of 10d. for each quarter-bushel estimated to be the quantity of fruit that would have been harvested therefrom during the four annual harvests next following the date of destruction had the tree been left growing, but subject to the normal effects of the disease during that period, whether on an infected tree or a tree exposed to infection, as the case may be.

(6) In the assessment of loss no deduction shall be made by reason of the fact that a crop from an infected area may not without the consent of an Inspector given under Regulation 4 hereof be removed for purposes of marketing.

(7) In assessing an amount representing loss in respect of any citrus tree or in discharging any other function under these regulations the committee shall act on the personal knowledge of the members thereof and any information in the possession of members of the committee without taking evidence or hearing parties.

(8) If any question arises as to whether any citrus trees have been destroyed on account of disease, or pursuant to these regulations, the committee may decide the question, and the decision of the committee shall be final.

(9) Forthwith after assessing an amount representing any loss in respect of citrus trees under these regulations the committee shall furnish the Director with full particulars of the amounts so assessed.

(10) The amount of compensation payable under these regulations shall be the amount assessed by the committee, reduced as follows :—

(a) In the case of any land which is registered as an orchard under the Orchard Registration Regulations 1937 and on which were planted not more than ten citrus trees, by an amount equal to 75 per cent. thereof :

- (b) In the case of any land which is registered as an orchard as aforesaid and on which were planted not less than eleven nor more than fifty citrus trees, by an amount equal to 25 per cent. thereof :
- (c) In the case of any land which is registered as an orchard as aforesaid and on which were planted not less than fifty-one citrus trees, by an amount equal to $12\frac{1}{2}$ per cent. thereof :
- (d) In the case of any land which is registered as a nursery under the Nursery Registration Regulations 1939,* by an amount equal to $12\frac{1}{2}$ per cent. thereof.
- (11) Notwithstanding anything hereinbefore contained, no compensation shall be payable for the destruction of citrus trees growing on any land—
- (a) If that land is not required to be registered as an orchard under the Orchard Registration Regulations 1937† or as a nursery under the Nursery Registration Regulations 1939‡; or
- (b) If the owner, occupier, or person in charge of that land obstructs an Inspector or any person employed by an Inspector in carrying out the provisions of these regulations.
- (12) Notwithstanding anything hereinbefore contained, no compensation shall be payable under these regulations for trees growing on any land unless and until the measures ordered by an Inspector have been taken and carried out in respect of that land to the satisfaction of the Inspector.
- (13) Application for compensation shall be made in writing to the Inspector for the locality in which the land of the owner or occupier is situate, and shall set out the name, address, and description of every person having any estate or interest in or encumbrance or charge over the land concerned.
- (14) Where more persons than one claim or appear to be entitled to compensation in respect of the destruction of citrus trees on any land the proportion of compensation payable to each such person shall be such sum as may be mutually agreed upon between them.
- (15) If the parties concerned fail to agree as to the proportion of compensation payable to each of them, the compensation may in the discretion of the Minister be paid to any owner, occupier, or encumbrancer of the land concerned upon his furnishing an indemnity with two sureties approved by the Minister indemnifying His Majesty the King against all claims and demands made by any other person claiming any estate or interest in or encumbrance or charge over that land.
- (16) Where citrus trees are destroyed pursuant to the said Act or these regulations the whole of the compensation payable pursuant to clause (10) of this regulation shall be paid as soon as practicable after such destruction, subject, however, to the provisions of clause (12) of this regulation.
- (17) All payments of compensation shall be made out of moneys appropriated by Parliament for the purpose.

OFFENCES

8. Every person commits a breach of these regulations and is liable accordingly who—

- (a) Fails to observe or perform any duty or obligation directly or by implication placed upon him by these regulations ; or

* Statutory Regulations 1939, Serial number 1939/239, page 974.

† Statutory Regulations 1936-37, Serial number 1937/209, page 777.

‡ Statutory Regulations 1939, Serial number 1939/239, page 974.

- (b) Does anything contrary to the provisions thereof; or
- (c) Obstructs or refuses to carry out any direction given by an Inspector acting under the authority of these regulations; or
- (d) Makes any false or misleading statement in connection with any application for compensation under these regulations or in connection with any matter incidental thereto.

SCHEDULE

The Citrus Canker Regulations 1945

NOTICE TO DESTROY CITRUS TREES

To

TAKE notice that, in consequence of an inspection made on the day of, 194.., of the (orchard, nursery, premises) occupied by you and situate at, the disease known as citrus canker of Japan has been found to exist therein, and, in pursuance of clause (1) of Regulation 3 of the above-entitled regulations, I hereby require you to destroy, within days after service upon you of this notice, those citrus trees planted therein which I have for purposes of identification marked on the trunk of the said trees with the following brand or mark, viz.:

If you fail or neglect to comply with this notice, then, in addition to the penalty prescribed by section 16 of the Orchard and Garden Diseases Act, 1928, the destruction of the said citrus trees may be effected at your expense.

Dated at, this day of, 194...

.....
Inspector under the Orchard and Garden
Diseases Act, 1928.

W. O. HARVEY,
Acting Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 29th day of November, 1945.

These regulations are administered in the Department of Agriculture.

(Notice No. Ag. 4237)